



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1605th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 August 2003, at 12 noon

Chairman: Mr. DIACONU

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1605.

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The public part of the meeting was called to order at 12.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Review of the implementation of the Convention in States parties whose reports are seriously overdue (continued)

Malawi

1. Mr. VALENCIA RODRÍGUEZ, speaking as Country Rapporteur, said Malawi had acceded to the Convention on 11 June 1996, but, since it had never presented an initial report, the Committee, in accordance with its practice, needed to conduct a review of the State party's implementation of the Convention on the basis of reports submitted to other treaty bodies, documents prepared by other United Nations bodies and documents from other sources.
2. Malawi's population was currently around 12 million and included a number of ethnic groups, the main ones being the Chewa in the central region and the Yao along the lake coast and in the central and southern regions; however, the population included other, smaller groups, as well as Asians and Europeans and around 10,000 refugees from neighbouring countries.
3. The Constitution established a broad general principle of non-discrimination on a range of grounds, including race or ethnic origin. The Constitution also enshrined human rights and regulated their implementation. It stipulated that the judicial and political authorities must carry out their duties with the sole purpose of serving and protecting the interests of the people of Malawi. There was no specific law prohibiting racial or other forms of discrimination, a shortcoming that had already been noted by the Committee on the Rights of the Child.
4. The country's economic situation was of particular importance, since its effects were almost certainly most keenly felt by ethnic minority groups. Sixty per cent of the population was considered poor, with annual expenditure of US\$ 40 per year; urban poverty stood at 65 per cent. Two thirds of those working on the land lived below the poverty line, a situation reflected in the high rates of malnutrition (around 50 per cent of children) and infant mortality (134 per thousand in 1998). The economy centred largely around agriculture, but drought and fluctuations in the world market had badly affected the main food crop, maize, and the main export crop, tobacco. Adult illiteracy rates were high: 56 per cent of women and 27 per cent of men in 1998. Malawi was classed as a least-developed country (LDC).
5. Women were subject to discriminatory practices, of which violence was the most widespread. They earned less than men, despite the fact that they worked more than men, notably in the fields, and were at the same time responsible for household tasks; inheritance law also favoured the husband's family, while a widow received virtually nothing. Nevertheless, women were recruited to non-combatant posts in the army and were visible in the civil service and political life.
6. Education levels were low, with high drop-out rates and only 15 per cent of primary students moving on to secondary education. Among the poor, education levels barely equipped them for agricultural work such as tobacco farming.

7. Registration of births was not compulsory, except for children of non-African origin. Without such registration, children were unable to exercise their human rights.
8. Health services did not meet the population's needs: there were 1.3 hospital beds per thousand inhabitants. Life expectancy was one of the lowest in the world, at 42 years, and 16.1 per cent of the population was affected by HIV/AIDS. Only around 45 per cent of the population had access to drinking water.
9. Although the Government respected human rights in general, problems existed such as the use of excessive force or negligence on the part of the police, which had resulted in a number of deaths, including deaths in prison or deaths on release. Prison conditions were extremely harsh and had also led to loss of life.
10. On the positive side, he said an Employment Act had been adopted in 2000 prohibiting discrimination in employment; and a Human Rights Commission had been established in 1999, with the task of protecting and promoting the rights protected by the Constitution and investigating any violations, either following a complaint or *proprio motu*. The Commission's work had, however, been hampered by budgetary constraints and was not widely known among the general population. There was also an Ombudsman, who was responsible for initiating legal proceedings against public officials who violated human rights.
11. There were a number of programmes to help refugees in the areas of health, food and education, and in the provision of veterinary and reforestation services. At the same time, however, Malawi's reservations to the 1951 Convention relating to the Status of Refugees reduced refugee protection in the areas of employment, property, education and social security.
12. On the basis of his research, he wished to present five conclusions. Firstly, the difficult social and economic conditions and in particular widespread poverty undoubtedly constituted factors impeding the implementation of the Convention in Malawi. Such serious problems could be overcome only by a concerted effort on the part of the Government and by sustained international cooperation.
13. Secondly, the Government should comply with its obligation under article 9 to submit reports to the Committee on its implementation of the Convention. In preparing such reports, the Government should be encouraged to avail itself of the support services offered by the technical advice and assistance programme of the Office of the High Commissioner for Human Rights.
14. Thirdly, the Government should adopt specific legislation prohibiting racial discrimination, in accordance with the provisions of the Convention, particularly articles 2, 3, 4 and 6.
15. Fourthly, with regard to article 5 of the Convention, the Government of Malawi should inform the Committee concerning the enjoyment of the rights recognized and protected under the Constitution, provided that such enjoyment did not give rise to acts of racial discrimination.
16. Fifthly, with regard to article 7, the Government should be recommended to disseminate the Convention in Chichewa especially, as well as in English, and to ensure that it reached minority ethnic groups in particular. That exercise should include information on the functions,

work and aims of the Human Rights Commission; training courses for law-enforcement officials; and seminars on meetings to promote understanding and friendship among the aforementioned ethnic groups and society as a whole.

17. Mr. ABOUL-NASR, while recognizing the tragic economic and social situation in Malawi, said that other States parties faced similar situations and noted that Malawi had submitted a report to the Committee on the Rights of the Child. He wondered if Malawi was the only case of a State party which had never submitted a report and said it was not satisfactory to merely report to the General Assembly based on information gleaned from secondary sources. If the State party showed no interest in maintaining a dialogue with the Committee, perhaps the Committee should accept that situation.

18. The CHAIRMAN said that, in addition to Malawi, Antigua and Barbuda, the Democratic Republic of the Congo, Guyana, Liberia, Saint Lucia and Turkmenistan had not submitted initial reports to the Committee. He did not however agree that the Committee should accept that situation; it should encourage a dialogue with those States through their periodic reports.

19. Mr. ABOUL-NASR suggested that the Committee adopt a resolution drawing the attention of the General Assembly to those States which had never met their reporting obligations.

20. Mr. YUTZIS agreed that the situation in Malawi was a serious one, but the Committee should not forget that it was dealing not only with a Government but also with a people. Members had an obligation to encourage the promotion of human rights, in particular the rights protected under the Convention. Malawi had after all submitted a report to the Committee on the Rights of the Child. A way should be found to promote dialogue with non-reporting States in the interest of the well-being of their populations.

21. Mr. KJAERUM said that despite recent setbacks such as attacks on the press, since independence Malawi had made real progress towards increased democracy, including a strong court system. There were bodies such as the Ombudsman and other human rights institutions within civil society with which the Committee could entertain a dialogue. Appropriate steps should be taken in that respect, for example, by encouraging the State party to avail itself of the technical assistance services of the Office of the High Commissioner for Human Rights when preparing its report and to make use of the local offices of other United Nations bodies. The Committee's recommendations could be transmitted to those offices and to national human rights institutions so that they could draw the authorities' attention to the Committee's concerns. Furthermore, he agreed that the Committee might adopt a resolution drawing the attention of the General Assembly to the situation of non-reporting States.

22. Mr. de GOUTTES suggested that the Committee should be supportive, by encouraging the State party to make use of available technical assistance and/or by sending one or two experts to help it prepare its report, but at the same time it should be more assertive and adopt a resolution drawing the attention of the General Assembly to the situation of non-reporting States.

23. Mr. THIAM pointed out that the non-reporting States were all facing very difficult internal situations and he doubted their ability to prepare a meaningful report. While he agreed that a degree of pressure should be applied, assistance should also be offered to help the State party maintain a dialogue with the Committee, which had an obligation to monitor the situation in States parties and provide advice. In that context, he felt that the most effective solution would probably be to send a member of the Committee to the State party.
24. Mr. AMIR believed the root cause of Malawi's problems was ethnic conflict. The Committee could not impose a dialogue on States parties. It should offer all available assistance, including technical support and visits by one or two experts, but at the same time it should ask the secretariat to communicate with the State party in order to find out why no report had been submitted. That at least would establish some kind of contact between the Committee and the State party. Only after receiving or failing to receive a response, as the case might be, should the Committee take the next step of adopting a resolution drawing the attention of the General Assembly to the situation.
25. Mr. LINDGREN ALVES said Malawi could have submitted a report if there had been a real political will to do so. The worst attitude the Committee could take towards non-reporting States would be to suspend its dialogue with them, which in any case would not be in keeping with the Convention or the Committee's obligations. A letter should therefore be sent to the State party reminding it of its obligation to submit periodic reports. If that letter had no effect, an expert, or even a representative from the secretariat, could visit the country to assess the situation and stress the importance of the State party's reporting obligations.
26. Mr. AVTONOMOV said other States had not submitted initial reports, or had long gaps between reports, or submitted reports for certain conventions but not others. The Committee should therefore, as a first step, send a letter to the State party but should also, through the secretariat, try to strengthen contacts with the State party in order to clarify the reasons why it had failed to submit its report.
27. The CHAIRMAN pointed out that the United Nations Children's Fund (UNICEF) provided a great deal of assistance to States parties for the purpose of preparing reports relating to the Convention on the Rights of the Child.
28. Mr. YUTZIS said each case should be dealt with individually. In that of Malawi, a letter should be sent expressing the Committee's concern that no report had been submitted; suggestions could be made about taking advantage of the technical assistance opportunities available to the State party. The Chairman could also contact the Permanent Mission of the State party regarding the Committee's concerns, while other United Nations bodies, including local offices, could be enlisted to highlight the Committee's concerns.
29. Mr. SHAHI said that, even in the absence of a periodic report, a great deal of information was available from sources such as non-governmental and human rights organizations, such as Amnesty International. That information could provide the Country Rapporteur with a sound basis for preparing concluding observations. Whether a report had been submitted or not, such action would encourage the State party to submit reports. That had been the case for Barbados, for which he had been country rapporteur. The Committee did not have to rely solely on the good will of the State party.

30. Mr. TANG said some States parties did not report due to a lack of resources but others simply chose not to report. The Committee must try to ensure dialogue with States parties and he suggested that the Chairman write to the foreign ministers of the countries concerned to remind them of their obligations. Another possibility was for the Committee to meet in New York in order to facilitate dialogue with certain States.

31. Mr. HERNDL said many countries were sent numerous reminders but still failed to submit reports. It was therefore essential to establish contact with the Governments concerned, preferably through more personal diplomacy, whether in New York, in the country itself, by the secretariat or through the Chairman.

32. The CHAIRMAN, speaking in his personal capacity, said that the State party had an obligation to submit periodical reports, which the Committee had an obligation to consider. The problem was to identify what exceptional measures could be adopted in order to encourage States parties to fulfil that reporting obligation.

The meeting rose at 1 p.m.